

1 ANDREW H. WILSON, ESQ. - State Bar #063209
WILSON, RYAN & CAMPILONGO
2 235 Montgomery Street, Suite 450
San Francisco, California 94104
3 (415) 391-3900

4 Laurie J. Bartilson
BOWLES & MOXON
5 6255 Sunset Boulevard, Suite 2000
Hollywood, California 90028
6 (213) 661-4030

7 Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL
8

RECEIVED

NOV 08 1993

HUB LAW OFFICES

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF MARIN

11 CHURCH OF SCIENTOLOGY)
12 INTERNATIONAL, a California not-)
for-profit religious corporation;)

13 Plaintiff,)

14 vs.)

15 GERALD ARMSTRONG; DOES 1 through)
16 25, inclusive,)

17 Defendants.)
18

Case No. 157680

DECLARATION OF LINDA M.
FONG IN OPPOSITION TO THE
MOTION TO COMMENCE
COORDINATION PROCEEDINGS

Date: November 12, 1993

Time: 9:00 a.m.

Dept: 1

Trial Date: None

19 LINDA M. FONG deposes and says:

20 1. I am an attorney at law, licensed to practice before the
21 Courts of the State of California and before this Court. I am an
22 associate with the law firm of Wilson, Ryan & Campilongo ("WRC"),
23 attorneys of record for Plaintiff Church Of Scientology Internation-
24 al ("Plaintiff"). As one of the attorneys responsible for the
25 representation of Plaintiff in this action, I make this Declaration
26 of my own personal knowledge in support of Plaintiff's Memorandum of
27 Points and Authorities in Opposition to Armstrong's Motion for Stay
28 Pending Coordination Proceedings.

WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

1 2. On October 25, 1993, Plaintiff requested that I attempt to
2 work out a compromise with Solina Walton regarding her motion to
3 expunge Lis Pendens and to intervene. The motion was scheduled for
4 hearing on shortened time before this Court for October 29, 1993.
5 The Lis Pendens had been recorded by Plaintiff against certain real
6 property located in Marin County, and which is the subject matter of
7 this litigation.

8 3. On October 25, 1993, I engaged in a telephone conversation
9 with James R. Langford, III, Esq. and someone identified as Bob
10 Taylor, attorneys representing Solina Walton. During that conversa-
11 tion, Ms. Walton's attorneys agreed to withdraw the motion to
12 expunge Lis Pendens scheduled for hearing on October 29, 1993 before
13 this Court, and Plaintiff agreed to the recordation of a withdrawal
14 of the Lis Pendens for purposes of allowing Mrs. Walton to refinance
15 the Property. It was further agreed that once the refinancing was
16 obtained, another Lis Pendens may be recorded against the Property,
17 although Mrs. Walton did not waive any right to expunge. Attached
18 hereto and incorporated herein as Exhibit A is a true and correct
19 copy of my letter dated October 26, 1993 to Mr. Langford
20 memorializing that telephone conversation.

21 4. After my office faxed the above-described letter, I
22 received a return telephone call from Mr. Langford at his home.
23 Apparently he was sick. He stated that he had not seen my letter
24 and I explained to him what it stated. Mr. Langford stated that he
25 did not want to prepare the escrow instructions and upon some
26 probing, he explained that the reason was that he did not want to do
27 the work. I stated that the instructions were set forth in my
28 letter and he indicated acceptance of our proposal.

1 5. The next day, on October 27, 1993, I received another
2 telephone call from Messrs. Langford and Taylor at which time they
3 told me that the escrow instructions were unacceptable because they
4 feared such instructions might be construed as an admission by Mrs.
5 Walton that the recordation of the Lis Pendens was proper. Instead,
6 they suggested the following: that Mrs. Walton would withdraw the
7 motion to expunge set for October 29, 1993 without prejudice if
8 Plaintiff would transmit a withdrawal of its Lis Pendens to Placer
9 Title in San Rafael. I promised to confer with my client and let
10 them know our decision as soon as possible.

11 6. On October 28, 1993, I telephoned Mr. Langford using the
12 two (2) telephone numbers he had given me the day before to inform
13 him that Plaintiff agreed to their proposal. I did not hear from
14 either Mr. Taylor or Mr. Langford in the morning of that day.
15 However, at approximately 3:00 p.m. Mr. Taylor called me and I
16 informed him of our acceptance. Attached hereto and incorporated
17 herein as Exhibit B is a true and correct copy of the letter from
18 Mr. Langford telecopied to me in the late afternoon of October 28,
19 1993 memorializing our agreement.

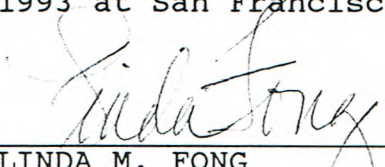
20 7. Immediately after I hung up the telephone with Mr. Taylor,
21 I executed the Withdrawal of Lis Pendens before a notary and made
22 arrangements for delivery to Placer Title on a "rush basis." In
23 fact, the package was picked up by a messenger service at 3:22 p.m.
24 and delivered approximately one hour later to Placer Title.
25 Attached hereto and incorporated herein as Exhibit C is a true and
26 correct copy of the messenger's declaration confirming the delivery.

27 8. On November 1, 1993, I learned for the first time that the
28 withdrawal of Lis Pendens had not been recorded and sent Mr.

1 Langford a letter, a true and correct copy of which is attached
2 hereto and incorporated herein as Exhibit D.

3 9. On that same day, I received a telecopied letter from Mr.
4 Langford, a true and correct copy of which is attached hereto and
5 incorporated herein as Exhibit E. For the first time I learned that
6 he had not withdrawn the motion to expunge and that he had obtained
7 an order from this Court granting the motion. As of this date, we
8 have never been served with a copy of the order. Attached hereto
9 and incorporated herein as Exhibit E is a true and correct copy of
10 my letter dated November 3, 1993 to Mr. Langford responding to his
11 letter.

12 I declare under penalty of perjury pursuant to the laws of the
13 State of California that the foregoing is true and correct.
14 Executed this 5th day of November, 1993 at San Francisco, Califor-
15 nia.



LINDA M. FONG
Attorneys for Plaintiff
Church of Scientology
International



WILSON, RYAN & CAMPILONGO

ANDREW H. WILSON
STEPHEN C. RYAN*
CHRISTOPHER B. TIGNO
ANNE R. WOODS
LINDA M. FONG
SHAUNA T. RAJKOWSKI
EDWARD S. ZUSMAN
IAIN-BREAC MACLEOD
GREGORY R. DIETRICH

A PROFESSIONAL LAW CORPORATION
235 MONTGOMERY STREET, SUITE 450
SAN FRANCISCO, CALIFORNIA 94104
(415) 391-3900
TELECOPY (415) 954-0938

OF COUNSEL
LISA F. CAMPILONGO
EDWARD L. BLUM

FILE

FAXED

* CERTIFIED TAXATION SPECIALIST
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

October 26, 1993

Via Facsimile (510) 947-0111

James R. Langford, III, Esq.
500 Ygnacio Valley Road, Suite 490
Walnut Creek, CA 94596-3847

Re: CSI v. Armstrong;
Our File No. SCI02-003A

Dear Mr. Langford:

This will confirm our telephone conversation of October 25 wherein you agreed to withdraw your Motion to Expunge Lis Pendens scheduled for hearing on October 29 and Plaintiff agreed to the recordation of an expungement of the lis pendens for the purposes of allowing your client, Solina Walton, to refinance the subject real property. You further agreed that once the refinancing is obtained, another lis pendens may be recorded against the property, although you do not waive any right to move to expunge it.

In order to comply with the above-referenced agreement, we request you prepare escrow instructions setting forth the following:

1. Upon securing refinancing, and clearing all liens and encumbrances in connection with that transaction, Solina Walton may record the withdrawal of lis pendens, a copy of which is enclosed.
2. Upon encumbering the subject property in the sum of [the dollar amount of the refinance], the enclosed Notice of Lis Pendens shall be recorded immediately thereafter.

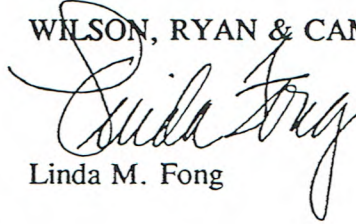
EXHIBIT A

Please prepare and fax to me the appropriate escrow instructions for our review and approval today.

Thank you for your cooperation.

Very truly yours,

WILSON, RYAN & CAMPILONGO

A handwritten signature in cursive script, appearing to read "Linda M. Fong".

Linda M. Fong

LMF-0689.LTR:pan

Enclosure

cc: Andrew H. Wilson, Esq.



SC102003

Law Offices of
JAMES R. LANGFORD III

OF COUNSEL

David J. Elefant

500 Ygnacio Valley Road, Suite 490
Walnut Creek, California 94596-3847
510/947-0100
Fax 947-0111

October 28, 1993

(VIA FACSIMILE 415/954-0938)

Linda M. Fong, Esq.
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, CA 94104

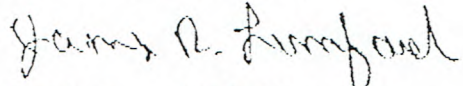
Dear Ms. Fong:

This will confirm my client Solina Walton will withdraw the motion to expunge set for tomorrow without prejudice when you have transmitted a recordable notarized withdrawal of your lis pendens to the escrow company directly. The withdrawal should be delivered immediately to Attn: Julie at Placer Title located at 851 Irwin Street, Suite 104 in San Rafael, phone number 453-2608, escrow number 104437.

As part of this arrangement, my client represents she will not transfer or otherwise voluntarily encumber the real property for no less than seven (7) days after transmitting to you by facsimile notice to you that a new deed of trust has been recorded. This notice will be given as soon as possible after recordation occurs.

If this arrangement is unacceptable for any reason, please let me know immediately.

Very truly yours,



JAMES R. LANGFORD III

JRL/dev
b4/fong2.ltr

1 ANDREW H. WILSON, ESQ. - State Bar No. 063209
LINDA M. FONG, ESQ. - State Bar No. 124232
2 WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
3 San Francisco, California 94104
(415) 391-3900

4 LAURIE J. BARTILSON
5 BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
6 Hollywood, California 90028
(213) 953-3360

7 Attorneys for Plaintiff
8 CHURCH OF SCIENTOLOGY INTERNATIONAL

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF MARIN

11
12 CHURCH OF SCIENTOLOGY) CASE NO. 157680
13 INTERNATIONAL, a California not-)
for-profit religious corporation,) DECLARATION OF ROBERT
14 Plaintiff,) McANDREWS
15 vs.)
16 GERALD ARMSTRONG; MICHAEL WALTON;)
17 THE GERALD ARMSTRONG CORPORATION, a)
California for-profit corporation;)
18 DOES 1 through 100, inclusive,)
19 Defendants.)
20

21 I, ROBERT McANDREWS, declare:

22 1. I have been employed as a messenger for Lightning
23 Express messenger service for the past three years.

24 2. If called as a witness I could and would
25 competently testify thereto to all facts within my personal
26 knowledge except for those stated upon information and belief.

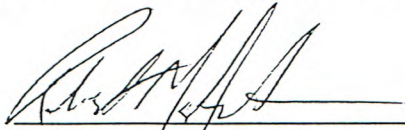
27 3. On October 28, 1993, I picked up a package at
28 approximately 3:22 p.m. from Wilson, Ryan & Campilongo for

EXHIBIT C

1 delivery to Placer Title, Attention: Julie, 851 Irwin Street,
2 Suite 104, San Rafael, California. The delivery was a on "rush"
3 basis. I delivered the package to Placer Title at that address at
4 approximately 4:20 p.m. Jay Corona signed for the package.

5 I declare under penalty of perjury pursuant to the laws of
6 the State of California that the foregoing is true and correct.

7 Executed November 3, 1993 at San Francisco, California.

8 
9 _____
10 Robert McAndrews

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WILSON, RYAN & CAMPILONGO

ANDREW H. WILSON
STEPHEN C. RYAN*
CHRISTOPHER B. TIGNO
ANNE R. WOODS
LINDA M. FONG
SHAUNA T. RAJKOWSKI
EDWARD S. ZUSMAN
IAIN-BREAC MACLEOD

A PROFESSIONAL LAW CORPORATION
235 MONTGOMERY STREET, SUITE 450
SAN FRANCISCO, CALIFORNIA 94104
(415) 391-3900
TELECOPY (415) 954-0938

OF COUNSEL
LISA F. CAMPILONGO
EDWARD L. BLUM

* CERTIFIED TAXATION SPECIALIST
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

November 1, 1993

Via Facsimile (510) 947-0111

James R. Langford, III, Esq.
500 Ygnacio Valley Road, Suite 490
Walnut Creek, CA 94596-3847

Re: CSI v. Armstrong;
Our File No. SCI02-003A

Dear Mr. Langford:

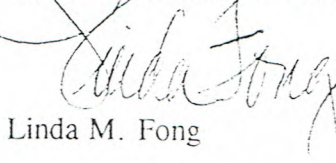
On October 28, 1993 we hand delivered to Julie at Placer Title the Withdrawal of Lis Pendens as required by our agreement memorialized in your letter to me dated the same date. Accordingly, you were to withdraw the Motion to Expunge scheduled for hearing on October 29. If you did not do so, please notify me immediately.

Today I learned from Julie that the Withdrawal was not recorded because her supervisor questioned another document that Mr. Walton apparently was attempting to record, which, in Julie's words was an attempt to preclude any subsequent Lis Pendens from being recorded against the property.

Please be advised that if Mr. Walton seeks to encumber the property contrary to the agreement between Ms. Walton and the Church of Scientology, we deem that action as a breach of the agreement and will seek all available remedies.

Very truly yours,

WILSON, RYAN & CAMPILONGO



Linda M. Fong

LMF-0697.LTR:cyp

EXHIBIT D



OF COUNSEL

David J. Etfant

Law Offices of
JAMES R. LANGFORD III
500 Ygnacio Valley Road, Suite 490
Walnut Creek, California 94596-3847
510/947-0100
Fax 947-0111

November 2, 1993

(VIA FACSIMILE 415/954-0938)

Linda M. Fong, Esq.
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, CA 94104

Dear Ms. Fong:

Unfortunately, your refusal to abide by the agreement we reached on October 25, as substantially reflected in your October 26 letter, resulted in much delay and cost.

In addition, after I accommodated you even further, on October 28, you told Mr. Taylor you could have the withdrawal of the lis pendens delivered to Placer Title by 4:00 p.m. that day. It was not so delivered. Placer Title was also led to believe by your conversation with them that you would not be delivering the withdrawal that day. As a result, Julie at Placer Title, did not learn of the delivery of this document until Friday afternoon, October 29. You said nothing to me. In any event, it appears the document was delivered too late to notify the court by 4:30 p.m. on October 28 of withdrawal of the motion.

As we have made you continuously aware, time is of the essence in this matter, and we acted accordingly. Therefore, an order granting the motion based on the tentative ruling was obtained and recorded Friday morning, and only later we discovered a withdrawal had been tardily delivered. This would not have occurred had you not chosen to wait until essentially beyond the last possible moment to attempt to satisfy the condition of our agreement. You apparently waited for the tentative ruling before deciding you had better do something about it.

My client is not attempting to play games here, as you apparently have been doing. The withdrawal of the lis pendens has not been recorded, pending confirmation from you that you in fact believe we still have an agreement. Please let me know before 12:00 noon tomorrow whether you believe we have an agreement authorizing me to record the lis pendens. If you so confirm this to me in writing, my client will not enforce the order. If I do not hear from you, I will assume it was not your intent to satisfy

EXHIBIT E

Linda M. Fong, Esq.
November 2, 1993
Page 2

the condition of our agreement, and Ms. Walton will not record the withdrawal.

As you have had our motion papers for almost two weeks, you are now well aware that in fact the lis pendens is not proper, and any lis pendens you record in this matter is harassment and will be expunged upon motion. If you choose to rerecord a lis pendens following my client's refinancing, we will immediately move to expunge that lis pendens, and will seek to recover fees for both motions.

Please confirm to me as soon as possible and before 12:00 noon tomorrow whether Ms. Walton is in fact authorized to record the withdrawal of lis pendens. Thank you in advance for your anticipated courtesy and cooperation.

Very truly yours,



JAMES R. LANGFORD III

JRL/dev
b4\fong3.ltr



FILE

WILSON, RYAN & CAMPILONGO

ANDREW H. WILSON
STEPHEN C. RYAN*
CHRISTOPHER B. TIGNO
ANNE R. WOODS
LINDA M. FONG
SHAUNA T. RAJKOWSKI
EDWARD S. ZUSMAN
JAIN-BREAC MACLEOD

A PROFESSIONAL LAW CORPORATION
235 MONTGOMERY STREET, SUITE 450
SAN FRANCISCO, CALIFORNIA 94104
(415) 391-3900
TELECOPY (415) 954-0938

OF COUNSEL
LISA F. CAMPILONGO
EDWARD L. BLUM

* CERTIFIED TAXATION SPECIALIST
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION

November 3, 1993

Via Facsimile (510) 947-0111

James R. Langford, III, Esq.
500 Ygnacio Valley Road, Suite 490
Walnut Creek, CA 94596-3847

Re: CSI v. Armstrong;
Our File No. SCI02-003A

Dear Mr. Langford:

Thank you for your letter of November 2, 1993. Your recitation of the events leading up to our agreement omits the following important facts. As you will recall, both you and Mr. Taylor called me at approximately 4:30 p.m. on October 27, 1993 to ascertain whether I had had a chance to confer with my clients concerning your counter proposal to our suggestion that you prepare escrow instructions. I promised to call you first thing Thursday morning, and in fact called both telephone numbers you gave me the morning of October 28. I did not hear from either of you that morning. In the afternoon Mr. Taylor finally returned my call at approximately 3:00 p.m. and we entered into the agreement set forth in your letter of October 28, 1993 (the "Agreement"). It was never stated to me, nor is it set forth in your letter, that the delivery to Julie had to be made by 4:00 p.m. Immediately after I hung up the telephone, we made arrangements to have the Withdrawal delivered on a "rush" basis. The package was picked up by Lightning Messenger at 3:22 p.m. and delivered within approximately one hour. The messenger's declaration will be sent to you this afternoon. Accordingly, your position that we did not comply with your condition that the withdrawal should be delivered "immediately" is false.

I do not understand your statement that we waited for the tentative ruling before performing. First, we did not submit an opposition to your motion because we believed we had worked out a compromise pursuant to which the motion would be withdrawn. Obviously the tentative would reflect the granting of your motion since we did not file any papers. Second, we performed immediately as required and your failure to communicate with Placer Title is your problem, not ours. Placer Title is open from 8:00 a.m. until 5:00 p.m. and you had the opportunity to ascertain whether the Withdrawal was delivered before the 9:00 hearing on October 29. We always intended to, and

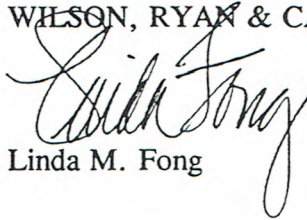
EXHIBIT E

did perform, according to the agreement. We expect that you will perform and that the subject property will not be encumbered for no less than seven days after facsimile notice to me that a new deed of trust has been recorded, which notice shall be given as soon as possible after recordation occurs.

Finally, I question why you waited until three work days later to inform me that you did not abide by the agreement and obtained an order granting your motion. The failure to withdraw the motion was a breach of the agreement and if your client was awarded attorney fees and costs pursuant to that motion, we will pursue all available remedies if you attempt to enforce it.

Very truly yours,

WILSON, RYAN & CAMPILONGO



Linda M. Fong

LMF-0697.LTR:cyp